

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

APR - 4 2005

The Honorable Thomas M. Jackson, Jr.
President
Virginia Board of Education
227 North Main Street
Hillsville, VA 24343



Dear President Jackson:

I am writing in response to the request made in your January 20, 2005, letter in which you request a partial waiver of the requirement under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (NCLB), to annually assess the English language proficiency of all English language learners in grades K-12 in the domains of reading, writing, listening and speaking. You specifically requested a waiver of the requirement to annually assess the reading and writing skills of English language learners in kindergarten and first grade.


Both Title I and Title III require the annual assessment of English language proficiency. Section 1111(b)(7) of Title I requires that "[e]ach State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002-2003, provide for an annual assessment of English proficiency of all students with limited English proficiency in the schools served by the State." Title III describes the evaluation criteria States must use. Specifically, Section 3121(d)(1) provides that "a State shall approve evaluation measures...that are designed to assess the progress of children in attaining English proficiency, including a child's level of comprehension, speaking, listening, reading and writing skills in English". This evaluation, as required by the statute, is necessary to promote the English language acquisition and academic achievement of English language learners at all grade levels. Therefore, we cannot grant your request for a waiver from the requirement to assess English language learners in grades K-1 in reading and writing.

We recognize, of course, that testing young students may present some challenges. To help with the challenges, we have enclosed a guidance document that may offer some support and technical assistance in your continuing efforts to meet the language acquisition and academic needs of English language learners in grades K-1.

Virginia is among many States that have joined consortia funded by the Department to develop collaboratively assessments for young English language learners. In addition to its involvement in the CCSSO-SCASS Consortium, Virginia may wish to consider the strategies and approaches of similar consortia that are specifically developing English language proficiency assessments for K-2 students that respond to NCLB requirements.

We look forward to working with you in meeting the English language proficiency assessment requirements under NCLB. If you have any questions, please contact Kathleen Leos, Associate Assistant Deputy Secretary, Office of English Language Acquisition (OELA), or Zollie Stevenson, Group Leader, Standards and Assessment Team, Office of Elementary and Secondary Education (OESE).

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Simon", written in a cursive style.

Raymond Simon

Enclosure

cc: Governor Mark Warner

Dr. Jo Lynne DeMary, Superintendent of Public Instruction

Questions and Answers Regarding the Inclusion of Limited English Proficient Students, Grades K-2, in English Language Proficiency Assessments and in Title III Annual Measurable Achievement Objectives

Both Titles I and III of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act (Sections 1111(b)(7) and 3113(b)(3)(D)), require State and local educational agencies to assess annually the English language proficiency of all limited English proficient (LEP) students in the domains of listening, speaking, reading, and writing. This requirement is further emphasized in the assurances included in the Consolidated State Application, which was adopted by all States, and in the Final Non-Regulatory Guidance on the Title III State Formula Grant Program-Standards, Assessments, and Accountability, which was provided to all State educational agencies.

While the selection of English language proficiency assessments is a State decision, the selected assessments need to produce valid and reliable data to answer two questions: Is the student proficient in listening, speaking, reading, and writing in English? If not, is the student making progress in attaining English proficiency? The following questions and answers provide information regarding how States can meet the English language proficiency assessment requirement under ESEA.

1. What is the rationale for including LEP students in grades K-2 in English language proficiency assessments?

The assessment of LEP students' English language proficiency in the early grades is essential in determining their level of English language proficiency and in tailoring educational programs to meet students' individual needs. English language proficiency assessment allows educators to set students' baseline of proficiency upon enrollment, which allows their individual progress in English language acquisition to be monitored over time. Often, LEP students enter kindergarten with varied differences in their levels of English language proficiency across the domains of reading, writing, listening, speaking and comprehension. These differences are embodied in the English language proficiency assessment results and give teachers and administrators the information needed to recommend an educational program appropriate to the child's language and academic needs. A successful educational foundation in the early years is critical to academic success in the later elementary grades, and fundamental to success in learning to read.

2. May States develop various types of assessments to assess the English language proficiency of LEP students in the four domains of language in grades K-2?

Yes, States have the flexibility to use several types of assessments to assess the English language proficiency of LEP students in grades K-2 in the four required domains of reading, writing, listening and speaking. States may select and implement assessments of their choice as long as they are developmentally appropriate, reliable, valid, and aligned to the State English language proficiency standards.

3. What kind of assessment may a State use to measure English language proficiency in grades K-2?

States may use a variety of assessments to measure the progress of LEP students. At this young age, English language learners can demonstrate proficiency on State English language proficiency standards in reading and writing by educators collecting work samples or recording structured observations of students' classroom performance over a period of time. The reading and writing assessment of English language proficiency of K-2 students need not be a group administered, paper-pencil test, or a single testing event.

4. Must States develop a separate assessment instrument to measure and report comprehension?

No, although Title III requires State and local education agencies to report a separate score for the domain of comprehension, a separate assessment instrument is not required for Title I and Title III. Comprehension may be demonstrated through reading and listening.

5. How can students in grades K-2 be included in Title III annual measurable achievement objectives (AMAOs)?

LEP students in grades K-2 must have their English language proficiency annually assessed, and their performance in all four domains must be included in determinations of whether or not States and LEAs meet the Title III annual measurable achievement objectives. Under Section 3122 of Title III of the ESEA, AMAOs are comprised of three parts: making progress in learning English, attaining English language proficiency, and making adequate yearly progress (AYP) as specified in Section 1111(b)(2)(of Title I of the ESEA.

States may elect to establish K-2 as a cohort and establish an AMAO target specifically for this cohort. This may make it easier to follow the progress of LEP students over time without the technical complexity of measuring growth when assessments change as students progress to the higher grade levels.

6. What resources are available to help States develop English language proficiency assessments?

The majority of States are developing English language proficiency assessments to meet the requirement to annually assess the English language proficiency of all LEP students in grades K-12 in the four domains of reading, writing, listening and speaking. States are participating in four consortia that have been funded under the Title VI Enhanced Assessment Grants Program. These consortia are: the Mountain West Assessment Consortium (MWAC), the CCSSO LEP-State Collaborative on Assessment and Student Standards (SCASS) Consortium, the Wisconsin-Illinois-Delaware-Arkansas (WIDA) consortium and the Pennsylvania Enhanced Assessment

Grant (PA EAG). Nearly 40 States participate in these consortia and could serve as resources in the development of English language proficiency assessments for LEP students in grades K-2.

7. When should States begin assessing students in grades K-2 for English language proficiency with tests that are aligned to both content standards and language proficiency standards?

States are expected to begin full administration of the newly aligned English language proficiency assessments for grades K-12 by spring of 2006.